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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL No. 378 OF 2006

Office Ntes, Office Memoranda of Coram, appeaances, Court's orders or directions and Registrar's orders	: Court's or Judge's order : : :

Ms. A.R.S. Baxi, advocate for the appellants.

Mr. P. D. Dalvi a/w Mr. Vinod Jadhav, advcate for the respondent Nos. 2 & 3.

CORAM : S. J. VAZIFDAR, J.

DATE : AUGUST 28, 2007.

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. The lower Appellate Court dismissed the plaintiff's suit for specific performance in respect of the reconveyance deed, dated 18th June 1962 inter-alia on the ground that it was barred by limitation. The learned Judge observed that the appellant / plaintiff admitted in his cross

examination that he sought specific performance of the contract from time to time in the year 1964-65 and in 1980. On an appreciation of the evidence, the learned Judge came to the conclusion that the respondents had refused the performance on both occasions. On going though the evidence, it is not possible to state that the inference drawn by the learned Judge is incorrect.

2. The learned Judge therefore, held that on the question of hardship, the balance of convenience lies in favour of the respondent, which disentitles the appellant for the relief of specific perfrmance. No question of law arises in the matter. Second Appeal is therefore, dismissed.